**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**INCOME TAX APPEAL NO.295 OF 2004**

**AND**

**INCOME TAX APPEAL NO.298 2004**

The Commissioner of Income Tax ..Appellant.

V/s.

Citi Bank N.A. ..Respondent.

Mr.R.V.Desai, senior counsel with Pankaj Kapoor for appellant.

**CORAM : S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.**

**DATED : 24TH JANUARY, 2005.**

**P.C. :-**

1. Heard learned counsel for the appellant. Perused the order of the Income Tax Appellate Tribunal, Bench-A, Mumbai dated 30th May, 2003. The Tribunal has clearly observed in paragraph 7 of the said order that the only question is whether the assessee could be held in default for non recovery of the short deduction of tax and the Tribunal also observed that at the relevant time relying upon several decisions of I.T.A.T. cited before

them, the assessee could not be faulted for believing that the conveyance allowance paid to its employees residing beyond 8 KMS. would not attract the provisions relating to tax deduction at source. It may be noted that at the relevant time the decision of our High Court in the case of **LIC Class-I, Officers Association** reported in **229 I.T.R. 510** was not available before the assessing officer. Under these circumstances, we do not find any substantial question of law is involved in both these appeals. Hence appeals stand dismissed.

**(S.RADHAKRISHNAN, J.)**

**(J.P. DEVADHAR, J.)**